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21 **ADDITIONAL COUNSEL LISTED ON**
22 **FOLLOWING PAGE**

23 **UNITED STATES DISTRICT COURT**
24 **CENTRAL DISTRICT OF CALIFORNIA**
25 **WESTERN DIVISION**

26 WILLIAM KENNETH CHAMBERS, an
27 individual,

28 Plaintiff,

v.

29 LEHIGH HANSON, Inc., d.b.a.
30 HANSON AGGREGATES, a
31 corporation; and DOES 1 through 10,
32 inclusive,

33 Defendants.

Case No. 2:15-CV-04444-AB(MRWx)

**STIPULATED PROTECTIVE
ORDER**

District Judge: Andre Birotte, Jr.
Courtroom: 4 - 2nd Floor

Mag. Judge: Michael R. Wilner
Courtroom: 550

Complaint Filed: April 23, 2015
Trial Date: July 12, 2016

Case No. 2:15-CV-04444-AB(MRWx)

STIPULATED PROTECTIVE ORDER

1 **ADDITIONAL COUNSEL OF RECORD**

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1 1. INTRODUCTION

2 1.1 PURPOSES AND LIMITATION

3 Discovery in this action is likely to involve production of confidential,
4 proprietary, or private information for which special protection from public disclosure
5 and from use for any purpose other than prosecuting this litigation may be warranted.
6 Accordingly, the parties hereby stipulate to and petition the Court to enter the
7 following Stipulated Protective Order. The parties acknowledge that this Order does
8 not confer blanket protections on all disclosures or responses to discovery and that the
9 protection it affords from public disclosure and use extends only to the limited
10 information or items that are entitled to confidential treatment under the applicable
11 legal principles. The parties further acknowledge, as set forth in Section 12.3, below,
12 that this Stipulated Protective Order does not entitle them to file confidential
13 information under seal; Civil Local Rule 79-5 sets forth the procedures that must be
14 followed and the standards that will be applied when a party seeks permission from
15 the court to file material under seal.

16 1.2 GOOD CAUSE STATEMENT

17 The parties believe that good cause exists to enter into a protective order in this
18 employment case, involving claims for wrongful termination and age and disability
19 discrimination, among others, because the discovery/disclosure of third party
20 employee employment records, and defendant's internal training materials and
21 policies and procedures, will likely be necessary as these records are relevant to the
22 reasons for plaintiff's discharge. If such information is disclosed to the public, harm
23 will occur to these third party employees in that their records are protected by well-
24 recognized third party rights to privacy in their employment records under the
25 California Constitution, and to defendant whose internal training materials and
26 policies and procedures are believed by defendant to be protected proprietary,
27 competitively sensitive and confidential business information.

2. DEFINITIONS

2.1 Action: This pending federal law suit.

2.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their support staff).

2.5 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

2.6 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.7 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this Action.

2.8 House Counsel: attorneys who are employees of a party to this Action. House Counsel does not include Outside Counsel of Record or any other outside counsel.

2.9 Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

2.10 Outside Counsel of Record: attorneys who are not employees of a party to this Action but are retained to represent or advise a party to this Action and have

1 appeared in this Action on behalf of that party or are affiliated with a law firm which
 2 has appeared on behalf of that party, and includes support staff.

3 2.11 Party: any party to this Action, including all of its officers, directors,
 4 employees, consultants, retained experts, and Outside Counsel of Record (and their
 5 support staffs).

6 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
 7 Discovery Material in this Action.

8 2.13 Professional Vendors: persons or entities that provide litigation support
 9 services (e.g., photocopying, videotaping, translating, preparing exhibits or
 10 demonstrations, and organizing, storing, or retrieving data in any form or medium)
 11 and their employees and subcontractors.

12 2.14 Protected Material: any Disclosure or Discovery Material that is
 13 designated as "CONFIDENTIAL."

14 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
 15 from a Producing Party.

16 3. SCOPE

17 The protections conferred by this Stipulation and Order cover not only
 18 Protected Material (as defined above), but also (1) any information copied or extracted
 19 from Protected Material; (2) all copies, excerpts, summaries, or compilations of
 20 Protected Material; and (3) any testimony, conversations, or presentations by Parties
 21 or their Counsel that might reveal Protected Material.

22 Any use of Protected Material at trial shall be governed by the orders of the trial
 23 judge. This Order does not govern the use of Protected Material at trial.

24 4. DURATION

25 Once a case proceeds to trial, all of the information that was designated as
 26 confidential or maintained pursuant to this protective order becomes public and will
 27 be presumptively available to all members of the public, including the press, unless
 28 compelling reasons supported by specific factual findings to proceed otherwise are

made to the trial judge in advance of the trial. See *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1180-81 (9th Cir. 2006) (distinguishing “good cause” showing for sealing documents produced in discovery from “compelling reasons” standard when merits-related documents are part of court record). Accordingly, the terms of this protective order do not extend beyond the commencement of the trial.

5. DESIGNATED PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection.

Each Party or Non-Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. The Designating Party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber the case development process or to impose unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.

If it comes to a Designating Party’s attention that information or items that it designated for protection do not qualify for protection, that Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this Order requires:

1 (a) for information in documentary form (e.g., paper or electronic documents,
2 but excluding transcripts of depositions or other pretrial or trial proceedings), that the
3 Producing Party affix at a minimum, the legend “CONFIDENTIAL” (hereinafter
4 “CONFIDENTIAL legend”), to each page that contains protected material. If only a
5 portion or portions of the material on a page qualifies for protection, the Producing
6 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
7 markings in the margins).

8 A Party or Non-Party that makes original documents available for inspection
9 need not designate them for protection until after the inspecting Party has indicated
10 which documents it would like copied and produced. During the inspection and before
11 the designation, all of the material made available for inspection shall be deemed
12 “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants
13 copied and produced, the Producing Party must determine which documents, or
14 portions thereof, qualify for protection under this Order. Then, before producing the
15 specified documents, the Producing Party must affix the “CONFIDENTIAL legend”
16 to each page that contains Protected Material. If only a portion or portions of the
17 material on a page qualifies for protection, the Producing Party also must clearly
18 identify the protected portion(s) (e.g., by making appropriate markings in the
19 margins).

20 (b) for testimony given in depositions that the Designating Party identify the
21 Disclosure or Discovery Material on the record, before the close of the deposition all
22 protected testimony.

23 (c) for information produced in some form other than documentary and for any
24 other tangible items, that the Producing Party affix in a prominent place on the
25 exterior of the container or containers in which the information is stored the legend
26 “CONFIDENTIAL.” If only a portion or portions of the information warrants
27 protection, the Producing Party, to the extent practicable, shall identify the protected
28 portion(s).

1 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
 2 failure to designate qualified information or items does not, standing alone, waive the
 3 Designating Party's right to secure protection under this Order for such material.
 4 Upon timely correction of a designation, the Receiving Party must make reasonable
 5 efforts to assure that the material is treated in accordance with the provisions of this
 6 Order.

7 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

8 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
 9 designation of confidentiality at any time that is consistent with the Court's
 10 Scheduling Order.

11 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
 12 resolution process (and, if necessary, file a discovery motion) under Local Rule 37.1
 13 et seq.

14 6.3 The burden of persuasion in any such challenge proceeding shall be on
 15 the Designating Party. Frivolous challenges, and those made for an improper purpose
 16 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
 17 expose the Challenging Party to sanctions. Unless the Designating Party has waived or
 18 withdrawn the confidentiality designation, all parties shall continue to afford the
 19 material in question the level of protection to which it is entitled under the Producing
 20 Party's designation until the Court rules on the challenge.

21 7. ACCESS TO AND USE OF PROTECTED MATERIAL

22 7.1 Basic Principles. A Receiving Party may use Protected Material that is
 23 disclosed or produced by another Party or by a Non-Party in connection with this
 24 Action only for prosecuting, defending, or attempting to settle this Action. Such
 25 Protected Material may be disclosed only to the categories of persons and under the
 26 conditions described in this Order. When the Action has been terminated, a Receiving
 27 Party must comply with the provisions of section 13 below (FINAL DISPOSITION).
 28

1 Protected Material must be stored and maintained by a Receiving Party at a
2 location and in a secure manner that ensures that access is limited to the persons
3 authorized under this Order.

4 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
5 otherwise ordered by the court or permitted in writing by the Designating Party, a
6 Receiving Party may disclose any information or item designated "CONFIDENTIAL"
7 only to:

8 (a) the Receiving Party's Outside Counsel of Record in this Action, as well as
9 employees of said Outside Counsel of Record to whom it is reasonably necessary to
10 disclose the information for this Action;

11 (b) the officers, directors, and employees (including House Counsel) of the
12 Receiving Party to whom disclosure is reasonably necessary for this Action;

13 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure
14 is reasonably necessary for this Action and who have signed the "Acknowledgment
15 and Agreement to Be Bound" (Exhibit A);

16 (d) the Court and its personnel;

17 (e) court reporters and their staff;

18 (f) professional jury or trial consultants, mock jurors, and Professional Vendors
19 to whom disclosure is reasonably necessary for this Action and who have signed the
20 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

21 (g) the author or recipient of a document containing the information or a
22 custodian or other person who otherwise possessed or knew the information;

23 (h) during their depositions, witnesses, and attorneys for witnesses, in the
24 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
25 requests that the witness sign the form attached as Exhibit A hereto; and (2) they will
26 not be permitted to keep any confidential information unless they sign the
27 "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise agreed
28 by the Designating Party or ordered by the court. Pages of transcribed deposition

1 testimony or exhibits to depositions that reveal Protected Material may be separately
 2 bound by the court reporter and may not be disclosed to anyone except as permitted
 3 under this Stipulated Protective Order; and

4 (i) any mediator or settlement officer, and their supporting personnel, mutually
 5 agreed upon by any of the parties engaged in settlement discussions.

6 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
 7 OTHER LITIGATION

8 If a Party is served with a subpoena or a court order issued in other litigation
 9 that compels disclosure of any information or items designated in this Action as
 10 “CONFIDENTIAL,” that Party must:

11 (a) promptly notify in writing the Designating Party. Such notification shall
 12 include a copy of the subpoena or court order;

13 (b) promptly notify in writing the party who caused the subpoena or order to
 14 issue in the other litigation that some or all of the material covered by the subpoena or
 15 order is subject to this Protective Order. Such notification shall include a copy of this
 16 Stipulated Protective Order; and

17 (c) cooperate with respect to all reasonable procedures sought to be pursued by
 18 the Designating Party whose Protected Material may be affected.

19 If the Designating Party timely seeks a protective order, the Party served with
 20 the subpoena or court order shall not produce any information designated in this
 21 action as “CONFIDENTIAL” before a determination by the court from which the
 22 subpoena or order issued, unless the Party has obtained the Designating Party’s
 23 permission. The Designating Party shall bear the burden and expense of seeking
 24 protection in that court of its confidential material and nothing in these provisions
 25 should be construed as authorizing or encouraging a Receiving Party in this Action to
 26 disobey a lawful directive from another court.

9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED
IN THIS LITIGATION

(a) The terms of this Order are applicable to information produced by a Non-Party in this Action and designated as "CONFIDENTIAL." Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If the Non-Party fails to seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this

1 Stipulated Protective Order. Similarly, no Party waives any right to object on any
2 ground to use in evidence of any of the material covered by this Protective Order.

3 12.3 Filing Protected Material. A Party that seeks to file under seal any
4 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
5 only be filed under seal pursuant to a court order authorizing the sealing of the
6 specific Protected Material at issue. If a Party's request to file Protected Material
7 under seal is denied by the court, then the Receiving Party may file the information in
8 the public record unless otherwise instructed by the court.

9 13. FINAL DISPOSITION

10 After the final disposition of this Action, as defined in paragraph 4, within 60
11 days of a written request by the Designating Party, each Receiving Party must return
12 all Protected Material to the Producing Party or destroy such material. As used in this
13 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
14 summaries, and any other format reproducing or capturing any of the Protected
15 Material. Whether the Protected Material is returned or destroyed, the Receiving Party
16 must submit a written certification to the Producing Party (and, if not the same person
17 or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by
18 category, where appropriate) all the Protected Material that was returned or destroyed
19 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
20 compilations, summaries or any other format reproducing or capturing any of the
21 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
22 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
23 legal memoranda, correspondence, deposition and trial exhibits, expert reports,
24 attorney work product, and consultant and expert work product, even if such materials
25 contain Protected Material. Any such archival copies that contain or constitute
26 Protected Material remain subject to this Protective Order as set forth in Section 4
27 (DURATION).

14. Any willful violation of this Order may be punished by civil or criminal contempt proceedings, financial or evidentiary sanctions, reference to disciplinary authorities, or other appropriate action at the discretion of the Court.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: September 30, 2015 **THE MATHEWS LAW GROUP**

By: /s/ Charles T. Mathews
CHARLES T. MATHEWS
Attorneys for Plaintiff
William Kenneth Chambers

Dated: September 30, 2015 **SOTTILE BALTAXE**

By: /s/ Payam I. Aframian
TIMOTHY B. SOTTILE
MICHAEL F. BALTAXE
JEREMY D. SCHERWIN
PAYAM I. AFRAMIAN
Attorneys for Plaintiff
William Kenneth Chambers

Dated: September 30, 2015 **WILSON TURNER KOSMO LLP**

By: /s/ Martina M. Nagle
ROBIN A. WOFFORD
MARTINA M. NAGLE
Attorneys for Defendant
Hanson Aggregates LLC

SIGNATURE ATTESTATION

Pursuant to Local Rule 5-4.3.4(2), I hereby certify that authorization for the filing of this document has been obtained from each of the other signatories shown above and that all signatories have authorized placement of their electronic signature on this document.

/s/ Martina M. Nagle
Martina M. Nagle

1 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

2
3 DATED: September 30, 2015



4 HON. MICHAEL R. WILNER
5 United States Magistrate Judge
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EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
 _____ [print or type full address], declare under penalty of perjury that
 I have read in its entirety and understand the Stipulated Protective Order that was
 issued by the United States District Court for the Central District of California on
 [date] in the case of *William Kenneth Chambers v. Lehigh Hanson, Inc., et al.*, United
 States District Court for the Central District of California, Case No. 2:15-CV-04444-
 AB(MRWx). I agree to comply with and to be bound by all the terms of this
 Stipulated Protective Order and I understand and acknowledge that failure to so
 comply could expose me to sanctions and punishment in the nature of contempt. I
 solemnly promise that I will not disclose in any manner any information or item that is
 subject to this Stipulated Protective Order to any person or entity except in strict
 compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court
 for the Central District of California for the purpose of enforcing the terms of this
 Stipulated Protective Order, even if such enforcement proceedings occur after
 termination of this action. I hereby appoint _____ [print or
 type full name] of _____ [print or type full
 address and telephone number] as my California agent for service of process in
 connection with this action or any proceedings related to enforcement of this
 Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____